

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

KIRK WOOL, and all other Vermont :
inmates similarly situated, :
Petitioners :
:
v. : File No. 1:05-CV-8
:
STEVEN GOLD, Commissioner of the :
Vermont Department of Corrections, :
Respondent :
:

ORDER

The Magistrate Judge's Report and Recommendation was filed August 18, 2005 (Paper 15). After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). Petitioner's initial filing (Paper 1) is construed as a complaint filed pursuant to 42 U.S.C. § 1983. The parties' respective arguments for dismissal (Papers 10 and 13), construed as motions to dismiss, are GRANTED. The complaint is DISMISSED without prejudice.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 2nd day of September, 2005.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge